**U.S. Department of Homeland Security**
U.S. Citizenship and Immigration Services
Administrative Appeals Office
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

**U.S. Citizenship and Immigration Services**

(b)(6)

DATE: AUG 2 5 2015

FILE #:
PETITION RECEIPT #:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability under Section 203(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)(A)

ON BEHALF OF PETITIONER:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO**.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

**DISCUSSION**: The Director, Texas Service Center (Director), denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed as abandoned under 8 C.F.R. § 103.2(b)(13)(i).

The petitioner provides software and network solutions. It seeks to permanently employ the beneficiary in the United States as a database analyst. The petition requests classification of the beneficiary as a member of the professions holding an advanced degree under section 203(b)(2)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2)(A). A labor certification approved by the U.S. Department of Labor accompanies the petition.

The Director concluded that the record did not establish the beneficiary's qualifying experience for the offered position. Accordingly, the Director denied the petition on July 1, 2014.

The record shows that the appeal is properly filed and alleges specific errors of law and fact. The record documents the procedural history of the case, which is incorporated into the decision. We will elaborate on the case's procedural history only as necessary.

We conduct appellate review on a *de novo* basis. *See, e.g., Soltane v. Dep't of Justice*, 381 F.3d 143, 145 (3d Cir. 2004). We consider all pertinent evidence of record, including new evidence properly submitted on appeal.[1]

On July 2, 2015, we sent the petitioner a Notice of Derogatory Information and Intent to Dismiss (NOID) the appeal, with a copy to counsel of record. The NOID informed the petitioner of additional derogatory information and additional potential grounds of denial. The NOID allowed the petitioner 30 days in which to submit a response. We informed the petitioner that we may dismiss the appeal if it did not respond to the notice.

As of the date of this decision, the petitioner has not responded to our NOID. We may deny a petition where a petitioner does not submit requested evidence that precludes a material line of inquiry. 8 C.F.R. § 103.2(b)(14). Because the petitioner did not respond to the NOID, the appeal will be summarily dismissed as abandoned under 8 C.F.R. § 103.2(b)(13)(i).

In visa petition proceedings, a petitioner bears the burden of establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

[1] The instructions to Form I-290B, Notice of Appeal or Motion, which are incorporated into the regulations by 8 C.F.R. § 103.2(a)(1), allow submission of additional evidence on appeal. The record in the instant case provides no reason to preclude consideration of documents newly submitted on appeal.